

## **REMARKS**

In the final Office Action, claims 1-19 are rejected. In response, claim 1 is amended. The pending claims in this application are claims 1-19. In view of these amendments and the following comments, reconsideration and allowance are requested.

### **The Obviousness-Type Double Patenting Rejection**

Claims 1-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 10-12 of copending application Serial No. 10/483,668. The rejection is based on the position that the claims differ by reciting different stereoisomers and that it is reasonable to expect a similar saliva inducing property for each isomer. In response, concurrently filed herewith is a terminal disclaimer which is believed to overcome the rejection. Thus, withdrawal of the provisional rejection is respectfully requested.

### **Rejection Under 35 U.S.C. § 103**

Claims 1 & 19 are rejected under 35 U.S.C. § 103(a) as being obvious over the article by Tanaka et al. Tanaka et al. is cited for disclosing a process of making 2E,4E-decadienoic isobutylamide. Tanaka et al. does not disclose the production of 2E,4Z-decadienoic isobutylamide (cis-pellitorin) as in the claimed invention. As the Examiner has recognized from Tanaka et al., such utilizes diethyl phosphorocyanide in dimethylformamide (DMF) in the reaction of Compound VII with isobutylamine. However, the Examiner has equated such to a catalyst when, in fact, diethyl phosphorocyanide is well known for being a reagent and not a catalyst (See Exhibit A).

As claim 1 now clarifies, Applicant's process is one which includes the step of reacting the 2E,4Z-decadiene acid ester with isobutylamine in the presence of an enzyme

catalyst. The enzyme catalyst is one with lipase activity. In this manner, Applicant's process produces cis-pellitorin which can be utilized in preparations used in foodstuffs or in luxury foodstuffs, as no harmful residues are left by use of the enzyme catalyst.

Tanaka et al. clearly fails to disclose or suggest an enzyme catalyst (clearly diethyl phosphorocyanide in dimethylformamide (DMF) is not an enzyme (See Exhibits B & C)) which is capable of carrying out the reaction of the ester with isobutylamine as in the claimed invention. The use of diethyl phosphorocyanide in DMF can be described as a reaction medium with DMF being the solvent. In fact, DMF is a known potential cancer causing agent and would not be appropriate to use in preparing a product eventually utilized in foodstuffs (the reason Tanaka et al. discloses synthesis of pellitorine as an insecticidal compound) as potential harmful residues, such as DMF, would be incorporated therein.

In view of these amendments and the above comments, claims 1-19 are submitted to be in condition for allowance. Accordingly, reconsideration and allowance are requested.

Respectfully submitted,



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